

No. 13022

Supreme Court of Illinois

Allen

vs.

Rhodes, Pegram & Co.

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division.

No. 87.
1880

Allen
vs
Rhodes

STATE OF ILLINOIS,
SUPREME COURT,

ss. The People of the State of Illinois,
To the Clerk of the Circuit Court for the County of Henderson Greeting:

Because, In the record and proceedings, as also in the rendition of the judgment of a plea which was in the Circuit Court of Henderson County, before the Judge thereof, between Christopher Rhodes & George Pegram doing business under the firm name & style of Rhodes, Pegram & Co. plaintiffs and Elbridge G. Allen, and W. W. Drummond, James Mitchell, Julius Gafford, R. Ray and N. A. Chapin as garnishers of Elbridge G. Allen defendants, it is said manifest error hath intervened, to the injury of the aforesaid Elbridge G. Allen

as we are informed by his complaint ——— and we being willing that error should be corrected, if any there be, in due form and manner, and that justice be done to the parties aforesaid, command you that if judgment thereof be given, you distinctly and openly, without delay, send to our Justices of the Supreme Court the record and proceedings of the plaint aforesaid, with all things touching the same, under your seal, so that we may have the same before our Justices aforesaid at Ottawa, in the County of La Salle, on the first Tuesday after the third Monday in April next, that the record and proceedings, being inspected, we may cause to be done therein, to correct the error, what of right ought to be done according to law!

Witness, The Hon. John D. Caton, Chief Justice of our said Court, and the Seal thereof, at Ottawa, this fifteenth day of February — in the Year of Our Lord one thousand eight hundred and fifty six ty
L. Leland

Clerk of the Supreme Court.

J. B. Rice Deputy

87
Ebridge G. Allen
as
Christopher Rhodes
& others.

Went of Euro



STATE OF ILLINOIS, *Supreme Court writ in and for*
the Third Grand Division of said State vs. El-
bridge G. Allen, plaintiff in error, vs. Christopher
Rhodes and George Pegram, doing business under the
firm, name and style of Rhodes, Pegram & Co.; and W.
W. Drummond, James Mitchell, Julius Gifford, F.
Ray, and N. A. Chapin, as garnishees of the said El-
bridge G. Allen, defendants in error—Error to Hen-
derson County Circuit Court.

IT appearing by affidavit on file in the clerk's office of
said Supreme Court, in the above entitled cause,
that Christopher Rhodes and George Pegram, two of
said defendants in error, are non-residents of the State
of Illinois, and without the reach of the process of said
Supreme Court, and a writ of error having been duly
sued out of said Supreme Court herein by the said
plaintiff in error, which writ of error is now pending in
said Supreme Court, and a writ of *scire facias* having
been issued herein, returnable on the first day of the
next term of said Supreme Court, to be holden at Otta-
wa, in said State, on the first Tuesday after the third
Monday in April next, according to law.

Now you, the said Christopher Rhodes and George
Pegram, whose non-residence appears as above, are
hereby notified to be and appear before the Justices of
said Supreme Court, at the next term of said Supreme
Court, to be holden at Ottawa, in said State, on the
first Tuesday after the third Monday in April next, to
hear the record and proceedings of said Circuit Court
brought into said Supreme Court on return of said writ
of error, and the errors assigned, if you shall see fit;
and further, to do and receive what said Supreme Court
shall order in this behalf. Attest:

L. LELAND, *Clerk.*

SCAMMON, McOAGY & FULLER, Atty's for plf. in error.
feb18-4w

STATE OF ILLINOIS, Supreme Court without and, for the third Grand Division of said State, vs. Christopher Rhodes and George Pegram, doing business under the firm, name and style of Rhodes, Pegram & Co.; and W. W. Drummond, James Mitchell, Julius Gifford, R. W. Ray, and N. A. Chapin, as garnishees of the said Christopher Rhodes and George Pegram, defendants in error—Error to Henderson County Circuit Court.

It appearing by affidavit on file in the clerk's office of said Supreme Court, in the above entitled cause, that Christopher Rhodes and George Pegram, two of said defendants in error, are non-residents of the State of Illinois, and without the reach of the process of said Supreme Court, and a writ of error having been duly sued out of said Supreme Court herein by the said plaintiff in error, which writ of error is now pending in said Supreme Court, and a writ of *scire facias* having been issued herein, returnable on the first day of the next term of said Supreme Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, according to law.

Now you, the said Christopher Rhodes and George Pegram, whose non-residence appears as above, are hereby notified to be and appear before the Justices of said Supreme Court, at the next term of said Supreme Court, to be holden at Ottawa, in said State, on the first Tuesday after the third Monday in April next, to hear the record and proceedings of said Circuit Court brought into said Supreme Court on return of said writ of error, and the errors assigned, if you shall see fit; and further, to do and receive what said Supreme Court shall order in this behalf. Attest:

L. LELAND, Clerk.

SCAMMON, McOAGY & FULLER, Attys' for plff. in error.
Feb 18-4w

I do hereby certify that the notice hereto attached was published for five successive weeks in the Ottawa Free Trader, a public newspaper, printed and published at Ottawa being of the State of Illinois the first publication being on the 18th day of February A.D. 1860, and on each succeeding week thereafter for five weeks.

Ottawa, Ills

April 19, 1860

Printers Fee \$5.00

Received payment

Wm. Osmon, Publisher

Per J. P. Barton

I have H. Fuller, one of the attys for said plff in error, on oath to say that on the 11th day of March 1860 I deposited a copy of the above attached notice in the post office at Chicago directed to said Rhodes & Pegram at St Louis Mo. that being the residence of said Defendants in error, as described in the original proceedings, & as I believe their present residence. The notice sent was cut from the paper in which it was published & submitted to Samuel H. Fuller from before me
M. 20: 1860
L. Leland Clk.

Allen
Rhodes et al
No 87
proof of publication

State of Illinois 3
Wenderson County 3

Plas &c Before the
Honorable John S Thompson Judge of the Circuit
Judicial Circuit in the said State of Illinois
at a Court begun and held at the Court House
in Aquanaka on the First Monday in the Month
of April A.D. 1857 It being the Sixth day
of said Month

Count Hon John S Thompson Judge
James H. Stewart States Atty
W. M. Graham Shff
Hugh L Thomson Clerk

Christopher Rhodes &
George Pegram doing
business under the firm
name & style of
Rhodes & Pegram &c

Albridge G. Allen

In Attachment

Be it Known that
on the Fourth day of March in the Year of our
Lord One Thousand Eight Hundred and Fifty
Four the following papers were filed in the
Clerk's Office of the Wenderson Circuit Court
in vacation in the above entitled cause
to wit.

Affidavit in Attachment

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State of Illinois ²
 Henderson County ³

James H. Stewart Attorney
 for Christopher Rhodes and George Pegram
 Comprising the firm of Rhodes Pegram & Co
 being first duly sworn deposes and says
 that Elbridge Allen is indebted to Christopher
 Rhodes and George Pegram comprising the firm
 of Rhodes Pegram & Co in the sum of Twenty
 Eight Hundred and Ninety Nine dollars and
 fifty cents for Money lent and advanced to
 the said Allen by said Rhodes Pegram & Co
 for Money by the said Rhodes Pegram & Co paid
 laid out and expended to and for the use
 of the said Allen for Money by said Allen had
 and received to and for the use of the said
 Rhodes Pegram & Co for money due said Rhodes
 Pegram & Co from said Allen for Interest and
 Commissions upon divers sums of Money lent and
 advanced by said Rhodes Pegram & Co to said
 Allen and for goods Wares and Merchandise sold
 and delivered by said Rhodes Pegram & Co
 to said Allen And that the said Elbridge
 Allen has departed from the State of Illinois
 with the intention of having his effects removed
 from the said State of Illinois to the injury of
 the said Rhodes Pegram & Co as he verily
 believes

J. H. Stewart
 Subscribed & sworn to this 4th day of March 1854 James Pollock Clerk

2

3

3

Bond on Attachment

Know all Men by these presents That we James H Stewart and Edward R Adams of the County of Henderson and State of Illinois are held and firmly bound unto Elbridge G Allen in the penal sum of Fifty Eight Hundred dollars for the payment of which well and truly to be made we and each of us bind ourselves our heirs executors and administrators jointly and severally & firmly by these presents sealed with our Seals and dated at Aquevaca this fourth day of March Anno Domini One thousand Eight Hundred and Fifty Four The Condition of the above obligation is such that Whereas the above bounden James H Stewart Attorney for Christopher Rhodes and George Pegram trading and doing business under the firm & style of Rhodes Pegram & Co hath on the day of the date hereof prayed an attachment at the suit of Christopher Rhodes and George Pegram trading and doing business under the firm name and style of Rhodes Pegram & Co against the estate of the above named Elbridge G Allen for the sum of Two Thousand Eight hundred and Ninety Nine & 100 Dollars And the same being about to be sued out returnable on the seventeenth day of April next to the term of the Court then to be holden Now if

the said Christopher Rhodes and George Pegram
 composing the firm of Rhodes Pegram & Co shall
 prosecute said suit with effect or in case of failure
 therein shall well and truly pay and satisfy the
 said Elbridge G Allen all such costs in said
 suit and such damages as shall be awarded
 against the said Christopher Rhodes and
 George Pegram composing the firm of Rhodes
 Pegram & Co their heirs executors or administra-
 tors in any suit or suits which may hereafter
 be brought for wrongfully suing out the said
 Attachment, then the above obligation to be
 void otherwise to remain in full force and
 effect

Taken and Entered into the 3 James H. Stewart *JP*
 date first above written 3 Edw R Adams *JP*
 John S Collock *clerk*

Bond for Costs

Christopher Rhodes &
 George Pegram doing
 business under the firm
 name & style of Rhodes
 Pegram & Co

vs

Elbridge G Allen

Henderson County
 Circuit Court
 To April Term
 A D 1854

I do hereby enter myself
 security for costs in this cause and acknowledge
 myself bound to pay or cause to be paid all costs
 which may accrue in this action either to the

opposite party or to any of the Officers of
this Court in pursuance of the laws of this
State Dated this 4th day of March A.D. 1854
Approved John S. Pollock clerk J. H. Stewart

Whereupon the following writ of Attachment
was issued to wit.

State of Illinois }
Henderson County }

The People of the State
of Illinois to the Sheriff of Henderson
County Greeting,

Whereas James Stewart Attorney
for Christopher Rhodes & George Pegram doing
business under the firm name and style of
Rhodes Pegram & Co hath complained on Oath
to John S. Pollock clerk of the Circuit Court
of Henderson County that Elbridge Allen
is justly indebted to said Rhodes Pegram
& Co to the amount of Twenty Eight Hundred
and Ninety Nine dollars and fifty cents And
oath having also been made that said Elbridge
Allen has departed from this State of
Illinois with the intention of having his
effects removed from the said State
of Illinois And the said James H.
Stewart Attorney as aforesaid having given
bond and security according to the direc-
tions of the act in such case made
and provided We therefore Command

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you that you attach so much of the estate real
or personal of the said Eldridge & Allen
to be found in your County as shall be of
Value sufficient to satisfy the said debt and
costs according to the Complaint and such
estate so attached in your hands to secure
or so to provide that the same may be
liable to further proceedings thereupon according
to law at a Court to be holden at Aquasco
for the County of Henderson on the Seventeenth
day of April next so as to compel the said
Eldridge & Allen to appear and answer the
Complaint of the said Christopher Rhodes and
George Pegram doing business under the firm name
& style of Rhodes Pegram & Co And that you also
Summon Andrew Meachem Jeremiah Meachem
Samuel D Perkins William W Drummond
James Mitchell Julius Lifford O. P. Russell
& A Russell firm of Russell & Brothers Alfred
Knowles Frederick Ray & Neely & Chapin
firm of Knowles Ray & Chapin as Garnishes
to be and appear at the said Court on the
said Seventeenth day of April next then
and there to answer what may be objected
against them When and where you shall
make known to the said Court how you have
executed this writ And have you then
and there this writ.

Witness John C. Collier

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Clerk of our said Court at Aquasaka
 Town this 4th day of March 1854
 John S. Collier Clerk
 Said Writ of Attachment was afterwards
 returned by said Sheriff endorsed as follows
 to wit By Virtue of the within writ
 I have this day levied upon the following
 described property to wit 40 feet off of West
 end of Lot 16. And 40 feet by 10 feet S. W
 Corner of Lot 13. in Block 68 also the center
 part of Lot one (1) in Block 72 together
 with the buildings on said center part oc-
 cupied as a Gun Shop the other as a Law
 office in the Town of Aquasaka Henderson
 County Illinois also a Lot of Lumber in
 a stable one Sofa. One set of Cushioned Chairs
 One Secretary One large Mirror 21 yds
 Woolen Carpetting 23 yds do one Side
 Table one Melodican One large Chest one
 large Map of U. S. And one Small Clock
 also three Head of horses one a bright Bay
 the other two are black or Brown One set of
 Buggy Harness One Saddle and riding
 Bridle Three stone Bores one Pitchfork

This 4th day of March 1854

Saml P. McGaw Shff H. C.

I have also this 14th day of March 1854
 levied upon the following described property to wit
 Three Casks and one Barrel of Queensware

4
as the property of the within named Elbridge
& Allen the same being in the care of
S. S. Phelps Samuel P. McGaw Shff No. 6

All of the above named personal property
and the Building described as a law office
is now in my hands under and by virtue of
three several executions issued out of the
Circuit Court of Stark County Illinois as
follows First one in favor of Samuel Parsons
Lynus Smith Alvan Holchever and Charles
J. Plumston and against Elbridge G. Allen
for the sum of \$1835.72 and \$2.50 costs of
suit dated January 17th 1854 and came to
my hands for collection Feby 16th 1854 8 O'clock
A M Second one in favor of James C
Hayward George P. Hayward Samuel
D. French & Thomas H. Fuller and against
Elbridge G. Allen for the sum of \$1109.00
and \$2.50 costs of suit dated January
17th 1854 and came into my hands for collection
Feby 16th 1854 8 O'clock A M

Third one in favor of J. H. Hazeltin &
W. Leavdin and L. A. Livermore and against
Elbridge G. Allen for the sum of \$286.41
and \$2.50 costs of suit dated Feby 1st
1854 Came into my hands Feby 27th 1854 8
O'clock A M And I have levied this at
attachment on said property by the direction

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And at request of James H. Stewart Esqr
Attorney of the Plaintiffs in said Attachment
I have not taken possession of said property
under this Attachment because it was al-
ready in my possession and by virtue of the
aforesaid Execution March 14th 1854

Saml. P. McGaw Shff. H. C. Ill

I cannot in my county find the within
named Elbridge G. Allen this 20th March 1854
S P McGaw Shff

I have served the following named per-
sons as Garnishes W. W. Drummond James
Mitchell Julius Gifford, H. Ray, W. A.
Chapin March 20th 1854 I cannot
find the within named Andrew Meacham
Jeremiah Meacham Saml. D. Perkins J. P.
Ripelle & Bissell and A. Knowles in my
county this 20th day of March 1854

Saml. P. McGaw Shff of H. C. Ill

On the 17th day of April 1854 James
H. Stewart Plaintiffs Attorney filed in the
Clerks Office of said Court in vacation
the following declaration to wit
State of Illinois 2 of the April Term of the
Wenderson County 3 Circuit Court in and for said
County & D. 1854

Christopher Rhodes and George Pegram
composing the firm of Rhodes Pegram & Co
complain of Elbridge G. Allen of a Plea of

trespass on the case on promises & for that where-
 as the said defendant heretofore to wit
 on the 17th day of January A.D. 1854 at the
 County of Henderson aforesaid was indebted
 to the said plaintiffs in the sum of \$2900-
 of lawful Money of the United States for diverse
 goods Wares and Merchandize by the said
 plaintiffs before that time sold and delivered
 to the said defendant and at his special
 instance and request And also in the further
 sum of \$2900 in like lawful Money for
 Money by the said plaintiffs before that time
 lent and advanced to and paid laid
 out and expended for the said defendant
 and at his like special instance and
 request And also in the further sum
 of \$2900 of like lawful Money for other
 Money by the said defendant before that
 time had and received to and for the
 use of the said plaintiffs And also for
 the further sum of \$2900 for so much Money
 before that time and then due and payable
 from the said defendant to the said plaintiffs
 for interest upon and for the forbearance of
 divers large sums of money before then lent
 and advanced by the said plaintiffs to
 the said defendant at his like special
 instance and request and by him the said

Plaintiff forbore to the said defendant for
divers long spaces of time before then elapsed
at the like special instance and request
of the said defendant And also for
other Money before that time and then due
and payable from the said defendant
to the said Plaintiff for interest upon and
for forbearance of divers other large sums
of money before then due and owing from
the said defendant to the said plain-
tiff And by the said Plaintiff forbore
to the said defendant for divers long spaces
of time before then elapsed at the special
instance and request of the said defendant
and being so indebted he the said defen-
dant in consideration thereof afterwards
to wit on the day and year aforesaid at
the County of Henderson aforesaid un-
derstood and then faithfully promised
the said Plaintiff to pay him the said
several sums of Money in this last men-
tioned when he the said defendant should
be thereunto afterwards requested Neverthe-
less the said defendant not regarding
his said several promises and under-
standings not as yet paid the said
several sums of Money or any or either of
them or any part thereof to the said
Plaintiff (although often requested so to do)

but the said defendant to pay him the same
 hath hitherto wholly neglected and refused
 and still doth neglect and refuse to the
 damage of the said plaintiff \$2900
 And therefore he brings his suit

J. H. Stewart P. S.

Copy of Account filed April 17th 1854
 hereinafter inserted - "C.R."

And afterwards to wit on the
 23rd day of April 1854 at the April
 Term 1854 of the Henderson Circuit
 Court On Motion it is ordered by the
 court that the Sheriff have leave
 to amend his return made on the
 Writ of Attachment filed herein

And afterwards to wit on the 19th
 day of September 1854 at the September Term
 1854 of said court, This day came the
 Plaintiff and their Attorney And the said de-
 fendant being three times solemnly called came
 not nor any person for him to defend this suit
 but made default Thereupon it is considered
 by the court that the Plaintiff have and
 recover of the said defendant their damages
 And as their damages are unknown to the
 court And as the Plaintiff cause of action
 is founded in whole or in part on account
 It is ordered that a jury be impanelled to

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J. H. Stewart P. S.

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 Plaintiff and their Attorney And the said de-
 fendant being three times solemnly called came
 not nor any person for him to defend this suit
 but made default Thereupon it is considered
 by the court that the Plaintiff have and
 recover of the said defendant their damages
 And as their damages are unknown to the
 court And as the Plaintiff cause of action
 is founded in whole or in part on account
 It is ordered that a jury be impanelled to

apers the plaintiffs damages thereupon came a
 jury to wit Chillon Kemp Alexander L Porter
 Wm Newman Elwan Thomas & Cakes Matthew Foster
 John & Peaseley Samuel Simmons & Blevins
 Moses Leaven Abner Short & W Fields James
 M Henderson who being duly elected
 tried and sworn upon their oaths do say
 "We the jury do find for the Plaintiffs and
 apers their damage at the sum of Two
 Thousand Nine Hundred and Ninety
 Six dollars and Seventy Six cents

Therefore it is considered by the court
 that the plaintiffs have and recover
 of the said defendant the sum of Two
 Thousand Nine Hundred and Ninety
 Six dollars and Seventy Six cents the
 Amount so apersed by the jury aforesaid
 together with their costs And that they have
 execution against the property attached
 as is hereinafter provided to wit Whereas
 Attachments issued in this and other cases
 out of the Circuit Court of Henderson
 County against the property of Elbridge
 G Allen returnable to the Spring Term of
 said court A D 1854 and levied on
 the following property to wit 40
 feet off West end of Lot 16 and 40
 feet by 10 feet & W Corner of Lot 13
 in Block 68 also the center part of Lot one

in Block 73 Together with the buildings on
 said Centre part of Lot (1) one occupied as
 a Tin Shop and the other as a law office in
 the Town of Aquasco Henderson County
 Illinois Also a lot of Lumber in a stable
 one sofa one sett of Cushioned chairs. one Sew-
 ing Machine one large Mirror 21 yds Woolen Carpeting
 23 yds do one side table one Melodion one
 large trunk one large Map of U. S. and
 one small clock also three head of Horses
 one sett of Buggy Harness one Saddle and
 riding Bridle three Store Boxes one Pitch
 fork. three casks and one Barrel of Queens-
 ware And also served the following
 Garnishes to wit W. W. Drummond James
 Mitchell Julius Gifford & Ray. and Nealy
 & Chapin which said several causes were
 continued to the present Term of this Court
 Whereas also there was no judgment rendered
 against the said Elbridge G. Allen at the
 said return term of the said Attachment
 It is therefore ordered that the Clerk issue
 orders of Sale in each of the said Causes
 at the same time and that he make an
 estimate of the several amounts or proportions
 to each attaching creditor will be entitled
 out of the property of the defendant attached
 And out of the amounts which may hereafter

be adjudged in the hands of Garnishers
 And that he deliver and certify the same
 to the Sheriff of Henderson County with
 the order of sale in said several causes
 that he calculate the same in proportion
 to their several judgments with their costs
 And that said Sheriff pay the amount
 made on said sale in the proportions
 made out in said estimate And this
 cause as to the said Garnishes is con-
 tinued until the next Term of this
 Court

And afterwards to wit on the
 2nd day of April 1855 at the April Term
 1855 of the Henderson Circuit Court
 This day came the Plaintiffs by their
 Attorney And on his Motion leave is
 granted him by the Court to file inter-
 rogatories to the Garnishes herein at the present
 term as of the last term of this Court

And afterwards to wit on the third
 day of April A.D. 1855 at the April Term
 of said Court the Plaintiffs file their
 Allegations and interrogatories to wit
 Rhodes Pegram & Co

Wm W. Drummond et al
 as Garnishes of E. G. Allen

And now come

the plaintiff by their Attorney and for Allegations and interrogatories herein say That the said William W. Drummond at the time of the Garnishee process in this cause was indebted to Elbridge G. Allen in the sum of Five thousand dollars and had property in their hands and each of their hands both real and personal belonging to said Allen to the amount and value of Five thousand dollars. And still has the same - that said property consists of notes of hand goods cattle Horses Carriages accounts and Lots 13 & 16 on Block 68 Queen's

And each of said defendants will answer the foregoing allegations and the following Interrogatories to wit First, Were you at the time of the service of the Garnishee process herein, have since been or are you now indebted to the said Elbridge G. Allen Second, Had you at the time of the service of the Garnishee process herein have you since had or have you now any property either real or personal or choses in action in your hands name possession or Contract belonging to the said Elbridge G. Allen If you declare the same fully and particularly as if particularly interrogated as to each item set out and describe the real estate

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State the Nature and amount of your indebtedness what notes and amounts accounts dates and persons against whom you hold the same fully,

And on said third day of April 1855 The said Interrogatories in this cause by agreement to stand for interrogation in each of the Attachment cases against Elbridge G Allen in W. W. Drummond is garnisheed and the Garnishees as to all others are dismissed W. W. Drummond is to Answer before the first day of May Next And this cause is continued until the next Term of this Court

And afterwards to wit on the 10th day of September 1855 at the September Term 1855 of said Court, The parties by their Attorneys come And William W. Drummond files his Answer to the allegations and interrogatories heretofore filed to wit,

Rhodes Pegram & Co	2	Answer of garnishee
W. W. Drummond as	2	
Garnishee of	2	
E. G. Allen	3	

The several answer of W. W. Drummond to the allegations and interrogatories exhibited and filed

against him as Garnishee of Elbridge
 G Allen This Garnishee now and at all
 times reserving unto himself all and all manner
 of benefit and advantage which can or
 may be had or taken to and on account
 of the manifest errors and imperfections in
 the said allegations and interrogatories con-
 tained for answer thereto or to such parts
 thereof as this Garnishee is informed is or
 are material for him to make answer unto
 he this Garnishee answering saith that he
 was not at the time of the Garnishee pro-
 cess aforesaid nor hath he since been nor
 is he now indebted to the said Elbridge
 G Allen in the sum of Five Thousand Dollars
 nor in any other sum or sums of Money
 whatsoever And this Garnishee further
 Answering saith that he had not at the
 time of the Garnishee process aforesaid nor
 hath he since had nor is he now in any
 manner and property whatsoever either
 real or personal or any choses in action in
 his hands name possession or control
 belonging to said Elbridge G Allen

And this Garnishee prays that he may
 be hence dismissed with his reasonable
 Costs and Charges in this behalf most
 wrongfully sustained

State of Illinois }
Cook County }
3rd

William W. Drummond
swears Oath and saith that the several
Matters and things in his foregoing answer
alleged set forth and contained are true
in substance and in fact
Subscribed and sworn to } W W Drummond
before me this Fourteenth
day of April A D 1855
W M Davis

Notary Public Cook County Illinois

Said said plaintiffs
by their Attorneys file their Answer & Replication
to the Answer of the said William W. Drummond
to wit

Rhodes Pegrano & Co

Oppm W. Drummond & Co

Garnishes of C & G. Allen

Garnishment

And now come the
plaintiffs and for replication to the Answer
of the said William W. Drummond to the
allegations & interrogatories filed herein they
that said Allegations are true and that
said Answer is untrue and of this they
put themselves upon the Country &c And
the said Drummond doth the like &c

Stewart W. & Co. for Plffs

And by agreement it is ordered by the court that this suit be continued until the next Term of this court

And afterwards to wit on the Seventh day of April 1846 at the April Term 1846 of the said court On Motion it is ordered by the court that this cause stand continued until the next Term of this court

And Thomas afterwards to wit on the 6th day of April 1857 at the April Term 1857 of said court, And now comes the said Plaintiff by their Attorney And issue being joined upon the Answer of the said Garnishee William W Drummond, The plaintiffs having alleged that said defendant William W Drummond hath not discovered the true amount of debts due from him to Elbridge G Allen or what goods and chattels belonging to the defendant are in his possession belonging to said Allen It is therefore ordered that a jury be empaneled to enquire what is the true amount due from said Drummond to said Allen and what goods and chattels are in his possession belonging to said Allen or were at the time of the service of the Garnishee process herein There upon came the jurors of a jury to wit

Cleazer Poque John Kemp Jr John Reynolds
 D W McCartney Isaac Valentine Charles
 E Birdsell Matthew Mitchell William
 Biggs John Rejener William H. Speck John
 Elchuff and William Logan who being tried
 and sworn upon their oaths do say "We
 the jury do find that at the time of the
 service of the Garnishee process in this
 Cause the said Drummond was indebted
 to said Allen and had property in
 his hands belonging to said Allen and
 from that time has been and now is
 indebted to said Allen and has pro-
 perty in his hands of said Allen to the
 Amount of Nine Thousand Two Hundred
 and Fifty Four dollars and Fifty three
 cents (\$9254 ⁵³/₁₀₀) It is therefore considered
 by the court that the said Elbridge
 G Allen recover of and from the said
 William W Drummond the sum of Nine
 Thousand Two Hundred and Fifty Four
 Dollars and Fifty three cents so found
 as aforesaid And that execution issue
 therefor It is further ordered that the
 proceeds of said judgment be appro-
 priated in satisfaction of the following
 named judgments against said Allen
 on attachment in the Henderson
 Circuit Court at the September Term

& D 1854 in which said Drummond was served
 as Garnishee of Mt, Coleman Waileman & Co vs
 Elbridge & Allen Oliver Bennett & Co vs
 Elbridge & Allen Waterman Ryan & Co
 vs Elbridge & Allen Brownlee Horner & Co
 vs Elbridge & Allen Rhodes Pogram & Co
 vs Elbridge & Allen, Atkins Steadman & Co
 vs Elbridge & Allen W. W. Kendrick & Co
 vs Elbridge & Allen And it is further
 ordered that the plaintiffs in this cause
 have and recover of the defendant herein
 all their costs by them in their behalf laid
 out and expended And may have
 execution therefor

The Account Current heretofore referred to on page Six in this transcript is in the following Words and figures to wit

Mr. E. G. Allen in ac Current and Interest

1853 To Jan'y 17th 1854 with Rhode Program & Co
 " 3 To Balance as per Ac rendered 4^{mo} 15 26 58 708 63

28 To our ac. you & dft payable at Atlantic Bank Boston c 6 Mos. due Dec 25/28 1853 1000 00

11 To Ex 1/2% on \$1000 remitted to A G Harwell & Co 5 -

" To Com 2 1/2% on \$1005 for advancing 32 5 50 25 12

July 8 To our ac of you & dft favor of C Simpson c 3 Mos. due Oct 5/8 200 -

" To Com 2 1/2% on same 104 3 55 5

" 16 To \$40 New let bags May 14 1853 16c 185 4 28 134 65

" 21 To Cash p'd your order in fav of John Edwards 180 1 55 50

" 23 To " " " " " S S Phelps 178 2 97 100 -

16 To 3/4 Asnaburgo 105 1/2 yds 12 1/2 185 40 18 18

25 To Cash p'd dft favor of A Mitchell 176 2 93 100

2 To Invoice of 110 bbls Kana Salt 682 57 c 30 205 42

" Insurance on same 3/4 on \$225 1 69

" Drayages 500

" Com 2 1/2% for buying & Shipping 199 6 90 5 30

" 28 To our ac of your & dft our favor payable at Atlantic Bank Boston 8 Mos due July 25/28 1854 29 4 85 1000 00

Jan'y 17 To Exchange 1/2% on same to be remitted to A G Harwell Boston 3 -

" To Com 2 1/2% on \$1005 for advancing 25 12

" To Balance of Interest to date 36 07

1854 " To Com 2 1/2% on uncovered balance of 2811.22 70 28

Jan'y 17 To Balance due us as Cash this day 52 66 36 95 46
 2881 50

			days	Interest	amount
July	16	By Geo Onaburg buys May 14 1853 a 12 1/2 180 \$. 80/25 ~			
	26	By a/c Sales \$27.62 68 1/2 Sacks Corn 3 Calf skins 9 Wool skins & 14 Hides for ~ Michigan	175	2 70	92 93
Aug	24	By same \$29.26 - 96 Sacks Corn & 84 Sacks Wheat for Carl. Hellman	146	3 90	160 32
	5	By same \$30.45 138 1/2 Sacks Wheat	114	4 30	247 94
	5	By " 32 7/8 180 ~ . Globe .	43	206	287 78
1854	17	By Interest in Red		4 83	
		By Balance of Interest to Debit		36 07	
		By Balance			2881 50
					<u>24 66 3695 46</u>

3/3 St Louis January 17th 1854
Rhodes Pegrum & Co
by Henry Baldwin

State of Illinois }
Wenderson County }
I Hugh L Thomson Clerk
of the Wenderson Circuit Court hereby certify
that the foregoing is a full and correct Trans-
cript of the proceedings of the proceedings and
judgments (Attachment & Garnishment) in the above
entitled cause

Witness my name and the Seal
of said Court this 9th day of
November 1859
Hugh L Thomson Clerk

In Supreme Court of the State
of Illinois. of 3rd Judicial Division
Of the April Term. A.D. 1860
E. J. Allen, Plff in Error.

versus
Christopher Rhodes
Jorge. T. Gram Weeks in Error.
and H. W. Drummond et al
Furnishes
Error from Henderson
Circuit Court.

And now come the said Plaintiff
and the said ~~Deceased~~ ^{Deceased} ~~Deceased~~ ^{Deceased},
in Error, and say that in the record
of the proceedings in the above entitled
cause in the Circuit Court of Henderson
County there is manifest error in this
to wit: First: That the affidavit
made by James H. Stewart as agent
for the plaintiff in said cause is
wholly uncertain and insufficient in
law.

Secondly. There does not appear to have been any notice of process upon the said defendant in said attachment proceeding.

Thirdly That judgment in said
action was rendered for a larger sum
than the amount claimed in said

affidavit with interest and is larger than the ad damnum laid in said declaration.

Fourthly. That the proceedings against the said garnishees and the judgment rendered in said action against them and in favor of this Plaintiff in Error is wholly insufficient and irregular.

Fifthly. That said Circuit Court of Henderson County. Erred in rendering judgment for said plaintiffs and against this Plaintiff in Error -

Sixthly. That said Circuit Court of Henderson County Erred in not rendering judgment in favor of said Plaintiff in Error -

Lastly. That the said Record is extremely uncertain and insufficient in law.

Samuel W. Lacy & Fuller
July 11th 1860. Attys for Plaintiff in Error

The Clerk of the Supreme Court will please cause a Scire Facias or Writ of Error to issue in the above entitled Cause to the Sheriff of Henderson County Mo. He will also cause publication to be made in the proper

Additional ones assigned
by said Wm Drummond

1. That said Circuit Court of Henderson County, had no authority or jurisdiction to render judgment against said Allen not having jurisdiction over him by service of process, or publication of notice
2. That the judgment rendered against said Drummond as furnished by said Allen was irregular & insufficient in law.
3. That said affidavit for attachment is wholly insufficient, and uncertain in law.
4. That said Court erred in rendering judgment against the said furnished
5. That said Court erred in not rendering judgment for said furnished

Samuel M. Lacy, Fuller
Attys for Allen & Drummond

attached April 17-1860

Filed April 20, 1860

L. Leonard

Clerk

by leave of Court

County in some public newspapers
to said Defendants in Error of the
Necessity of these proceedings as
required by Rule 30 of Rules of the
Supreme Court - Vol 19 266 R
Samuel W. Fuller
Attys for Aff in Error

City of Chicago }
Cook County } J

I, Samuel W. Fuller one of
the attorneys for E. J. Allen, Plaintiff in
Error in the above entitled cause being
duly sworn, on oath say that Christopher
Kroetz and George Fegram are defendants
in Error and both of them non residents of
this State but are residents of the State of
Wisconsin and further I say and
Subscribed and sworn to }
before me this 11th day of } Samuel W. Fuller
February A.D. 1860 }
}

Chas. W. Holdes

Notary Public

Supreme Court of Illinois - 3rd Division
E. J. Allen vs. Nathan Error } April Term, 1868
vs
Phoebe et al vs. Nathan Error
- Garnishers

I do hereby enter myself as
security for costs in the above entitled
action and acknowledge myself bound to
pay or cause to be paid all costs which
may accrue in this action either to the
opposite parties or to any of the officers
of this Court in pursuance of the laws
of this State.

Witness my hand and seal this 11th day of }
February A.D. 1868 } James W. Fuller

Filed February 18, 1860
L. Leland
Clerk